

AN ACT

To amend sections 1775.14, 2315.08, 4171.10, 4507.07, and 5703.54; to enact sections 2307.011, 2307.22, 2307.23, 2307.24, 2307.25, 2307.26, 2307.27, 2307.28, 2307.29, 2315.32, 2315.33, 2315.34, 2315.35, 2315.36, 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 2315.46; and to repeal sections 2307.31, 2307.32, 2307.33, 2315.19, and 2315.20 of the Revised Code to modify the law regarding the apportionment of liability in specified civil actions.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1775.14, 2315.08, 4171.10, 4507.07, and 5703.54 be amended and sections 2307.011, 2307.22, 2307.23, 2307.24, 2307.25, 2307.26, 2307.27, 2307.28, 2307.29, 2315.32, 2315.33, 2315.34, 2315.35, 2315.36, 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised Code be enacted to read as follows:

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised Code and except as provided in division (B) of this section, all partners are liable as follows:

(1) Jointly and severally for everything chargeable to the partnership under sections 1775.12 and 1775.13 of the Revised Code. This joint and several liability is not subject to ~~division (D) of section 2315.19~~ 2307.22, 2315.36, or 2315.46 of the Revised Code with respect to a negligence or other tort claim that otherwise is subject to ~~that section~~ any of those sections.

(2) Jointly for all other debts and obligations of the partnership, but any partner may enter into a separate obligation to perform a partnership contract.

(B) Subject to divisions (C)(1) and (2) of this section or as otherwise provided in a written agreement between the partners of a registered limited liability partnership, a partner in a registered limited liability partnership is not liable, directly or indirectly, by way of indemnification, contribution, assessment, or otherwise, for debts, obligations, or other liabilities of any

kind of, or chargeable to, the partnership or another partner or partners arising from negligence or from wrongful acts, errors, omissions, or misconduct, whether or not intentional or characterized as tort, contract, or otherwise, committed or occurring while the partnership is a registered limited liability partnership and committed or occurring in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(C)(1) Division (B) of this section does not affect the liability of a partner in a registered limited liability partnership for that partner's own negligence, wrongful acts, errors, omissions, or misconduct, including that partner's own negligence, wrongful acts, errors, omissions, or misconduct in directly supervising any other partner or any employee, agent, or representative of the partnership.

(2) Division (B) of this section shall not affect the liability of a partner for liabilities imposed by Chapters 5735., 5739., 5743., and 5747. and section 3734.908 of the Revised Code.

(D) A partner in a registered limited liability partnership is not a proper party to an action or proceeding by or against a registered limited liability partnership with respect to any debt, obligation, or other liability of any kind described in division (B) of this section, unless the partner is liable under divisions (C)(1) and (2) of this section.

Sec. 2307.011. As used in Chapters 2307. and 2315. of the Revised Code:

(A) "Conduct" means actions or omissions.

(B) "Contributory fault" means contributory negligence, other contributory tortious conduct, comparative negligence, or express or implied assumption of the risk.

(C) "Economic loss" means any of the following types of pecuniary harm:

(1) All wages, salaries, or other compensation lost as a result of an injury, death, or loss to person or property that is a subject of a tort action, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings;

alf of the injured person:

(3) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property;

(4) Any other expenditures incurred as a result of an injury, death, or loss to person or property that is a subject of a tort action, except expenditures of the injured person, the person whose property was injured or destroyed, or another person on behalf of the injured person or the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved.

(D) "Intentional tort claim" means a claim alleging that a tortfeasor intentionally caused or intentionally contributed to the injury or loss to person or property or the wrongful death or that a tortfeasor knew or believed that the injury or loss to person or property or the wrongful death was substantially certain to result from the tortfeasor's conduct. As used in sections 2307.22, 2315.32, and 2315.42 of the Revised Code, "intentional tort claim" does not include an intentional tort claim alleged by an employee or the employee's legal representative against the employee's employer and that arises from the tortfeasor's conduct that occurs on premises owned, leased, or supervised by the employer.

(E) "Negligence claim" means a civil action for damages for injury, death, or loss to person or property to the extent that the damages are sought or recovered based on allegation or proof of negligence.

(F) "Noneconomic loss" means nonpecuniary harm that results from an injury, death, or loss to person that is a subject of a tort action, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education; mental anguish; and any other intangible loss.

(G) "Person" has the same meaning as in division (C) of section 1.59 of the Revised Code and additionally includes a political subdivision and the state.

(H) "Persons from whom the plaintiff does not seek recovery in this action" includes, but is not limited to, the following:

(1) Persons who have entered into a settlement agreement with the plaintiff;

(2) Persons whom the plaintiff has dismissed from the tort action without prejudice;

(3) Persons whom the plaintiff has dismissed from the tort action with prejudice;

(4) Persons who are not a party to the tort action whether or not that person was or could have been a party to the tort action if the name of the person has been disclosed prior to trial.

(I) "Plaintiff" includes the person for whom the plaintiff is legal representative.

(J) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(K) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim but does not include a civil action for damages for a breach of contract or another agreement between persons.

(L) "Trier of fact" means the jury or, in a nonjury action, the court.

Sec. 2307.22. (A) Subject to sections 2307.23 and 2307.24 and except as provided in division (B) of section 2307.70, division (B) of section 4507.07, section 4399.02, or another section of the Revised Code that expressly establishes joint and several tort liability for specified persons, joint and several tort liability shall be determined as follows:

(1) In a tort action in which the trier of fact determines that two or more persons proximately caused the same injury or loss to person or property or the same wrongful death and in which the trier of fact determines that more than fifty per cent of the tortious conduct is attributable to one defendant, that defendant shall be jointly and severally liable in tort for all compensatory damages that represent economic loss.

(2) If division (A)(1) of this section is applicable, each defendant who is determined by the trier of fact to be legally responsible for the same injury or loss to person or property or the same wrongful death and to whom fifty per cent or less of the tortious conduct is attributable shall be liable to the plaintiff only for that defendant's proportionate share of the compensatory damages that represent economic loss. The proportionate share of a defendant shall be calculated by multiplying the total amount of the economic damages awarded to the plaintiff by the percentage of tortious conduct as determined pursuant to section 2307.23 of the Revised Code that is attributable to that defendant.

(3) In a tort action in which the trier of fact determines that two or more persons proximately caused the same injury or loss to person or property or the same wrongful death and in which the trier of fact determines that fifty per cent or less of the tortious conduct is attributable to any defendant against whom an intentional tort claim has been alleged and established, that defendant shall be jointly and severally liable in tort for all compensatory damages that represent economic loss.

(4) If division (A)(3) of this section is applicable, each defendant against whom an intentional tort claim has not been alleged and established, who is determined by the trier of fact to be legally responsible for the same injury or loss to person or property or the same wrongful death, and to whom fifty per cent or less of the tortious conduct is attributable shall be liable to the plaintiff only for that defendant's proportionate share of the compensatory damages that represent economic loss. The proportionate share of a defendant shall be calculated by multiplying the total amount of the economic damages awarded to the plaintiff by the percentage of tortious conduct as determined pursuant to section 2307.23 of the Revised Code that is attributable to that defendant.

(B) Except as otherwise provided in divisions (A)(3) and (4) of this section, in a tort action in which the trier of fact determines that two or more persons proximately caused the same injury or loss to person or property or the same wrongful death and in which the trier of fact determines that fifty per cent or less of the tortious conduct is attributable to each defendant, each defendant shall be liable to the plaintiff only for that defendant's proportionate share of the compensatory damages that represent economic loss. The proportionate share of a defendant shall be calculated by multiplying the total amount of the economic damages awarded to the plaintiff by the percentage of tortious conduct as determined pursuant to section 2307.23 of the Revised Code that is attributable to that defendant.

(C) In a tort action in which the trier of fact determines that two or more persons proximately caused the same injury or loss to person or property or the same wrongful death, each defendant who is determined by the trier of fact to be legally responsible for the same injury or loss to person or property or for the same wrongful death shall be liable to the plaintiff only for that defendant's proportionate share of the compensatory damages that represent noneconomic loss. The proportionate share of a defendant shall be calculated by multiplying the total amount of the noneconomic damages awarded to the plaintiff by the percentage of tortious conduct as determined pursuant to section 2307.23 of the Revised Code that is attributable to that defendant.

(D) Sections 2307.25 to 2307.29 of the Revised Code shall apply to joint and several tort liability that is described in division (A) of this section.

interrogatories, that shall specify all of the following:

(1) The percentage of tortious conduct that proximately caused the injury or loss to person or property or the wrongful death that is attributable to the plaintiff and to each party to the tort action from whom the plaintiff seeks recovery in this action;

(2) The percentage of tortious conduct that proximately caused the injury or loss to person or property or the wrongful death that is attributable to each person from whom the plaintiff does not seek recovery in this action.

(B) The sum of the percentages of tortious conduct as determined pursuant to division (A) of this section shall equal one hundred per cent.

(C) For purposes of division (A)(2) of this section, it is an affirmative defense for each party to the tort action from whom the plaintiff seeks recovery in this action that a specific percentage of the tortious conduct that proximately caused the injury or loss to person or property or the wrongful death is attributable to one or more persons from whom the plaintiff does not seek recovery in this action. Any party to the tort action from whom the plaintiff seeks recovery in this action may raise an affirmative defense under this division at any time before the trial of the action.

Sec. 2307.24. (A) Sections 2307.22 and 2307.23 of the Revised Code do not affect joint and several liability that is not based in tort.

(B) Sections 2307.22 and 2307.23 of the Revised Code do not affect any other section of the Revised Code or the common law of this state to the extent that the other section or common law makes a principal, master, or other person vicariously liable for the tortious conduct of an agent, servant, or other person. For purposes of section 2307.22 of the Revised Code, a principal and agent, a master and servant, or other persons having a vicarious liability relationship shall constitute a single party when determining percentages of tortious conduct in a tort action in which vicarious liability is asserted.

Sec. 2307.25. (A) Except as otherwise provided in sections 2307.25 to 2307.28 of the Revised Code, if one or more persons are jointly and severally liable in tort for the same injury or loss to person or property or for the same wrongful death, there may be a right of contribution even though judgment has not been recovered against all or any of them. The right of contribution exists only in favor of a tortfeasor who has paid more than that tortfeasor's proportionate share of the common liability, and that tortfeasor's total recovery is limited to the amount paid by that tortfeasor in excess of that tortfeasor's proportionate share. No tortfeasor may be compelled to make contribution beyond that tortfeasor's own proportionate share of the common liability. There is no right of contribution in favor of any tortfeasor

against whom an intentional tort claim has been alleged and established.

(B) A tortfeasor who enters into a settlement with a claimant is not entitled to contribution from another tortfeasor whose liability for the injury or loss to person or property or the wrongful death is not extinguished by the settlement, or in respect to any amount paid in a settlement that is in excess of what is reasonable.

(C) A liability insurer that by payment has discharged in full or in part the liability of a tortfeasor and has discharged in full by the payment its obligation as insurer is subrogated to the tortfeasor's right of contribution to the extent of the amount it has paid in excess of the tortfeasor's proportionate share of the common liability. This division does not limit or impair any right of subrogation arising from any other relationship.

(D) This section does not impair any right of indemnity under existing law. If one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of the indemnity obligation.

(E) This section does not apply to breaches of trust or of other fiduciary obligations.

(F) The proportionate shares of tortfeasors in the common liability shall be based upon their relative degrees of legal responsibility. If equity requires the collective liability of some as a group, the group shall constitute a single share, and principles of equity applicable to contribution generally shall apply.

(G) Whether or not judgment has been entered in an action against two or more tortfeasors for the same injury or loss to person or property or for the same wrongful death, contribution may be enforced by separate action.

(H) Whenever the provisions of the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 2671 et seq., are applicable to a tort and the United States is held liable in tort, the United States has no right of contribution under this section against the state pursuant to the waiver of sovereign immunity contained in Chapter 2743. of the Revised Code.

Sec. 2307.26. If a judgment that imposes joint and several liability has been entered in an action against one or more tortfeasors for the same injury or loss to person or property or for the same wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment debtors, by motion, upon notice to all parties to the action. If there is a judgment for the injury or loss to person or property or the wrongful death against the tortfeasor seeking contribution, that tortfeasor shall commence any separate action to enforce contribution within one year after

the judgment has become final by lapse of time for appeal or after appellate review.

If there is no judgment for the injury or loss to person or property or the wrongful death against the tortfeasor seeking contribution, that tortfeasor's right of contribution is barred unless either of the following applies:

(A) That tortfeasor has discharged by payment the common liability within the statute of limitations period applicable to the claimant's right of action against that tortfeasor and has commenced that tortfeasor's action for contribution within one year after the payment.

(B) That tortfeasor has agreed while an action is pending against that tortfeasor to discharge the common liability and has paid within one year after the agreement the common liability and commenced that tortfeasor's action for contribution.

Sec. 2307.27. (A) The recovery of a judgment for an injury or loss to person or property or a wrongful death against one tortfeasor does not of itself discharge the other tortfeasors from liability for the injury, loss, or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(B) Valid answers to interrogatories by a jury or findings of fact by a court sitting without a jury in determining the percentage of liability of several defendants for an injury or loss to person or property or a wrongful death shall be binding as among those defendants in determining their right to contribution.

Sec. 2307.28. When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons for the same injury or loss to person or property or the same wrongful death, both of the following apply:

(A) The release or covenant does not discharge any of the other tortfeasors from liability for the injury, loss, or wrongful death unless its terms otherwise provide, but it reduces the claim against the other tortfeasors to the extent of the greater of any amount stipulated by the release or the covenant or the amount of the consideration paid for it, except that the reduction of the claim against the other tortfeasors shall not apply in any case in which the reduction results in the plaintiff recovering less than the total amount of the plaintiff's compensatory damages awarded by the trier of fact and except that in any case in which the reduction does not apply the plaintiff shall not recover more than the total amount of the plaintiff's compensatory damages awarded by the trier of fact.

(B) The release or covenant discharges the person to whom it is given from all liability for contribution to any other tortfeasor.

Sec. 2307.29. No provision of sections 2307.25 to 2307.28 of the Revised Code applies to a negligence or other tort claim to the extent that sections 2307.22 to 2307.24, sections 2315.32 to 2315.36, or sections 2315.41 to 2315.46 of the Revised Code make a party against whom a judgment is entered liable to the plaintiff only for the proportionate share of that party as described in those sections.

Sec. 2315.08. ~~So far as in their nature applicable, sections 2315.01 to 2315.19 of the Revised Code, respecting~~ The provisions of this chapter that apply to trials by jury, apply to trials by the court.

Sec. 2315.32. (A) Sections 2315.32 to 2315.36 of the Revised Code do not apply to tort actions based on a product liability claim.

(B) The contributory fault of the plaintiff may be asserted as an affirmative defense to a negligence claim or to a tort claim other than a negligence claim, except that the contributory fault of the plaintiff may not be asserted as an affirmative defense to an intentional tort claim.

Sec. 2315.33. The contributory fault of a person does not bar the person as plaintiff from recovering damages that have directly and proximately resulted from the tortious conduct of one or more other persons, if the contributory fault of the plaintiff was not greater than the combined tortious conduct of all other persons from whom the plaintiff seeks recovery in this action and of all other persons from whom the plaintiff does not seek recovery in this action. The court shall diminish any compensatory damages recoverable by the plaintiff by an amount that is proportionately equal to the percentage of tortious conduct of the plaintiff as determined pursuant to section 2315.34 of the Revised Code. This section does not apply to actions described in section 4113.03 of the Revised Code.

Sec. 2315.34. If contributory fault is asserted and established as an affirmative defense to a negligence claim, the court in a nonjury action shall make findings of fact, and the jury in a jury action shall return a general verdict accompanied by answers to interrogatories, that shall specify the following:

(A) The total amount of the compensatory damages that would have been recoverable on that negligence claim but for the tortious conduct of the plaintiff;

(B) The portion of the compensatory damages specified under division (A) of this section that represents economic loss;

(C) The portion of the compensatory damages specified under division (A) of this section that represents noneconomic loss;

(D) The percentage of tortious conduct attributable to all persons as determined pursuant to section 2307.23 of the Revised Code.

Sec. 2315.35. After the court makes its findings of fact or after the jury returns its general verdict accompanied by answers to interrogatories as described in section 2315.34 of the Revised Code, the court shall diminish the total amount of the compensatory damages that would have been recoverable by an amount that is proportionately equal to the percentage of tortious conduct determined under section 2307.23 of the Revised Code that is attributable to the plaintiff. If the percentage of the tortious conduct determined to be attributable to the plaintiff is greater than the sum of the percentages of the tortious conduct determined to be attributable to all parties to the tort action from whom the plaintiff seeks recovery plus all persons from whom the plaintiff does not seek recovery in this action, the court shall enter judgment in favor of the defendants.

Sec. 2315.36. If contributory fault is asserted as an affirmative defense to a negligence claim, if it is determined that the plaintiff was contributorily at fault and that contributory fault was a direct and proximate cause of the injury, death, or loss to person or property that is the subject of the tort action, and if the plaintiff is entitled to recover compensatory damages pursuant to section 2315.33 of the Revised Code from more than one party, after it makes findings of fact or after the jury returns its general verdict accompanied by answers to interrogatories as described in section 2315.34 of the Revised Code, the court shall enter a judgment that is in favor of the plaintiff and that imposes liability pursuant to section 2307.22 of the Revised Code.

Sec. 2315.41. (A) As used in sections 2315.41 to 2315.46 of the Revised Code, "other contributory tortious conduct" or "other tortious conduct" means tortious conduct that contributes to the injury, death, or loss to person or property for which the plaintiff is seeking relief but does not include conduct constituting express assumption of the risk or implied assumption of the risk.

(B) Sections 2315.41 to 2315.46 of the Revised Code do not apply to actions described in section 4113.03 of the Revised Code.

Sec. 2315.42. (A) Express or implied assumption of the risk may be asserted as an affirmative defense to a product liability claim, except that express or implied assumption of the risk may not be asserted as an affirmative defense to an intentional tort claim.

(B) If express or implied assumption of the risk is asserted as an affirmative defense to a product liability claim and if it is determined that the plaintiff expressly or impliedly assumed a risk and that the express or implied assumption of the risk was a direct and proximate cause of harm for which the plaintiff seeks to recover damages, the express or implied

assumption of the risk is a complete bar to the recovery of those damages.

Sec. 2315.43. Contributory negligence or other contributory tortious conduct may be asserted as an affirmative defense to a product liability claim. Contributory negligence or other contributory tortious conduct of a plaintiff does not bar the plaintiff from recovering damages that have directly and proximately resulted from the tortious conduct of one or more other persons, if the contributory negligence or other contributory tortious conduct of the plaintiff was not greater than the combined tortious conduct of all other persons from whom the plaintiff seeks recovery and of all other persons from whom the plaintiff does not seek recovery in this action. The compensatory damages recoverable by the plaintiff shall be diminished by an amount that is proportionately equal to the percentage of negligence or other tortious conduct of the plaintiff, which percentage is determined pursuant to section 2315.44 of the Revised Code.

Sec. 2315.44. If contributory negligence or other contributory tortious conduct is asserted and established as an affirmative defense to a product liability claim, the court in a nonjury action shall make findings of fact, and the jury in a jury action shall return a general verdict accompanied by answers to interrogatories, that shall specify the following:

(A) The total amount of the compensatory damages that would have been recoverable on that product liability claim but for the negligence or other tortious conduct of the plaintiff;

(B) The portion of the compensatory damages specified under division (A) of this section that represents economic loss;

(C) The portion of the compensatory damages specified under division (A) of this section that represents noneconomic loss;

(D) The percentage of negligence or other tortious conduct attributable to all persons as determined pursuant to section 2307.23 of the Revised Code.

Sec. 2315.45. After the court makes its findings of fact or after the jury returns its general verdict accompanied by answers to interrogatories as described in section 2315.44 of the Revised Code, the court shall diminish the total amount of the compensatory damages that would have been recoverable by an amount that is proportionately equal to the percentage of negligence or other tortious conduct determined pursuant to section 2307.23 of the Revised Code that is attributable to the plaintiff. If the percentage of the negligence or other tortious conduct determined to be attributable to the plaintiff is greater than the sum of the percentages of the tortious conduct determined to be attributable to all parties to the action from whom the plaintiff seeks recovery plus all persons from whom the plaintiff does not

seek recovery in this action, the court shall enter judgment in favor of the defendants.

Sec. 2315.46. If contributory negligence or other contributory tortious conduct is asserted as an affirmative defense to a product liability claim, if it is determined that the plaintiff was contributorily negligent or engaged in other contributory tortious conduct and that the contributory negligence or other contributory tortious conduct was a direct and proximate cause of the injury, death, or loss to person or property involved, and if the plaintiff is entitled to recover compensatory damages pursuant to this section from more than one party, after it makes findings of fact or after the jury returns its general verdict accompanied by answers to interrogatories as described in section 2315.44 of the Revised Code, the court shall enter a judgment that is in favor of the plaintiff and that imposes liability pursuant to section 2307.22 of the Revised Code.

Sec. 4171.10. The express assumption of risk set forth in section 4171.09 of the Revised Code shall serve as a complete defense ~~to~~ in a suit tort or other civil action against an operator by a roller skater for injuries resulting from the assumed risks of roller skating. The comparative negligence or other tort provisions of section 2315.19 sections 2315.32 to 2315.36 of the Revised Code shall not apply unless the operator has breached the operator's duties pursuant to sections 4171.06 and 4171.07 of the Revised Code.

Sec. 4507.07. (A) The registrar of motor vehicles shall not grant the application of any minor under eighteen years of age for a probationary license, a restricted license, or a temporary instruction permit, unless the application is signed by one of the minor's parents, the minor's guardian, another person having custody of the applicant, or, if there is no parent or guardian, a responsible person who is willing to assume the obligation imposed under this section.

At the time a minor under eighteen years of age submits an application for a license or permit at a driver's license examining station, the adult who signs the application shall present identification establishing that the adult is the individual whose signature appears on the application. The registrar shall prescribe, by rule, the types of identification that are suitable for the purposes of this paragraph. If the adult who signs the application does not provide identification as required by this paragraph, the application shall not be accepted.

When a minor under eighteen years of age applies for a probationary license, a restricted license, or a temporary instruction permit, the registrar shall give the adult who signs the application notice of the potential liability

that may be imputed to the adult pursuant to division (B) of this section and notice of how the adult may prevent any liability from being imputed to the adult pursuant to that division.

(B) Any negligence, or willful or wanton misconduct, that is committed by a minor under eighteen years of age when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of the minor for a probationary license, restricted license, or temporary instruction permit, which person shall be jointly and severally liable with the minor for any damages caused by the negligence or the willful or wanton misconduct. This joint and several liability is not subject to ~~division (D) of~~ section ~~2315.19~~ 2307.22, 2315.36, or 2315.46 of the Revised Code with respect to a negligence claim that otherwise is subject to that section.

There shall be no imputed liability imposed under this division if a minor under eighteen years of age has proof of financial responsibility with respect to the operation of a motor vehicle owned by the minor or, if the minor is not the owner of a motor vehicle, with respect to the minor's operation of any motor vehicle, in the form and in the amounts required under Chapter 4509. of the Revised Code.

(C) Any person who has signed the application of a minor under eighteen years of age for a license or permit subsequently may surrender to the registrar the license or temporary instruction permit of the minor and request that the license or permit be canceled. The registrar then shall cancel the license or temporary instruction permit, and the person who signed the application of the minor shall be relieved from the liability imposed by division (B) of this section.

(D) Any minor under eighteen years of age whose probationary license, restricted license, or temporary instruction permit is surrendered to the registrar by the person who signed the application for the license or permit and whose license or temporary instruction permit subsequently is canceled by the registrar may obtain a new license or temporary instruction permit without having to undergo the examinations otherwise required by sections 4507.11 and 4507.12 of the Revised Code and without having to tender the fee for that license or temporary instruction permit, if the minor is able to produce another parent, guardian, other person having custody of the minor, or other adult, and that adult is willing to assume the liability imposed under division (B) of this section. That adult shall comply with the procedures contained in division (A) of this section.

Sec. 5703.54. (A) A taxpayer aggrieved by an action or omission of an officer or employee of the department of taxation may bring an action for damages in the court of claims pursuant to Chapter 2734. of the Revised

Code, if all of the following apply:

(1) In the action or omission the officer or employee frivolously disregards a provision of Chapter 5711., 5733., 5739., 5741., or 5747. of the Revised Code or a rule of the tax commissioner adopted under authority of one of those chapters;

(2) The action or omission occurred with respect to an audit or assessment and the review and collection proceedings connected with the audit or assessment;

(3) The officer or employee did not act manifestly outside the scope of ~~his~~ the officer's or employee's office or employment and did not act with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B) In any action brought under division (A) of this section, upon a finding of liability on the part of the state, the state shall be liable to the taxpayer in an amount equal to the sum of the following:

(1) Compensatory damages sustained by the taxpayer as a result of the action or omission by the department's officer or employee;

(2) Reasonable costs of litigation and attorneys fees sustained by the taxpayer.

(C) In the awarding of damages under division (B) of this section, the court shall take into account the negligent actions or omissions, if any, on the part of the taxpayer that contributed to the damages, but shall not be bound by the provisions of ~~section 2315.19~~ sections 2315.32 to 2315.36 of the Revised Code.

(D) Whenever it appears to the court that a taxpayer's conduct in the proceedings brought under division (A) of this section is frivolous, the court may impose a penalty against the taxpayer in an amount not to exceed ten thousand dollars which shall be paid to the general revenue fund of the state.

(E)(1) Division (A) of this section does not apply to advisory opinions or other informational functions of an officer or employee of the department.

(2) Division (A) of this section does not authorize a taxpayer to bring an action for damages based on an action or omission of a county auditor or an employee of a county auditor.

(F) As used in this section, "frivolous" means that the conduct of the commissioner, or of the taxpayer or ~~his~~ the taxpayer's counsel of record satisfies either of the following:

(1) It obviously serves merely to harass or maliciously injure the state or its employees or officers if referring to the conduct of a taxpayer, or to harass or maliciously injure the taxpayer if referring to the conduct of the tax commissioner;

(2) It is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

SECTION 2. That existing sections 1775.14, 2315.08, 4171.10, 4507.07, and 5703.54 and sections 2307.31, 2307.32, 2307.33, 2315.19, and 2315.20 of the Revised Code are hereby repealed.

SECTION 3. Sections 1775.14, 2307.011, 2307.22, 2307.23, 2307.24, 2307.25, 2307.26, 2307.27, 2307.28, 2307.29, 2315.32, 2315.33, 2315.34, 2315.35, 2315.36, 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, 2315.46, 4171.10, 4507.07, and 5703.54 of the Revised Code, as amended or enacted, by this act, apply only to causes of action that accrue on or after the effective date of this act. Any cause of action that accrues prior to the effective date of this act is governed by the law in effect when the cause of action accrued.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____